IN HIGH COURT OF UTTARANCHAL AT NAINITAL

W.P. NO. 1040 (MS) OF 2004

Manjoor Ahmad Baig .....Petitioner.

Versus

State and another .....Respondents.

Hon'ble Rajesh Tandon J.

Heard Sri Tanveer Alam Khan and Sri Anurag Bisaria for the standing counsel

By the present writ petition, the petitioner has prayed for quashing of the notice dated 15.10.2004.

Briefly stated, suit was filed by the plaintiff/appellant praying for permanent injunction restraining the respondents from evicting the plaintiff except in accordance with law.

The suit was dismissed by the Trial Court. The appeal was preferred by the petitioner against the said order before the District Judsge, Dehradun bearing civil appeal no. 154 of 2001 and the Additional District Judge, Dehradun partially allowed the appeal of the appellant granting relief in favour of the petitioner restraining the respondents from evicting the petitioner from the property in suit except due process of law.

The grievance of the petitioner is that in spite of the fact that appeal has become final but without giving any opportunity to the petitioner, he has been asked by way of notice dated 15.10.2004 to remove his effects by 25th October, 2004.

However, notice in question shall not be given effect to except in accordance with law.

Since the order dated 15th November, 2003 has already become final, respondents are directed to afford an opportunity to the petitioner, the steps may be taken under the Public Premises Act or a suit may be filed for eviction where the parties may exchange their pleadings and the rights may be adjudicated on merits.

Subject to the aforesaid observation, writ petition is disposed of.

(RAJESH TANDON, J.)

28.10.2004

P.S.R.